

CHAPTER 2003-15

Senate Bill No. 1080

An act relating to anhydrous ammonia; amending s. 812.014, F.S.; providing that the theft of anhydrous ammonia is grand theft and a felony of the third degree; amending s. 893.033, F.S.; adding anhydrous ammonia to the list of precursor chemicals that may be used in manufacturing a controlled substance in violation of ch. 893, F.S.; reenacting s. 893.149, F.S., relating to the unlawful possession or distribution of a listed chemical; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 812.014, Florida Statutes, is amended to read:

812.014 Theft.—

(1) A person commits theft if he or she knowingly obtains or uses, or endeavors to obtain or to use, the property of another with intent to, either temporarily or permanently:

(a) Deprive the other person of a right to the property or a benefit from the property.

(b) Appropriate the property to his or her own use or to the use of any person not entitled to the use of the property.

(2)(a)1. If the property stolen is valued at \$100,000 or more; or

2. If the property stolen is cargo valued at \$50,000 or more that has entered the stream of interstate or intrastate commerce from the shipper's loading platform to the consignee's receiving dock; or

3. If the offender commits any grand theft and:

a. In the course of committing the offense the offender uses a motor vehicle as an instrumentality, other than merely as a getaway vehicle, to assist in committing the offense and thereby damages the real property of another; or

b. In the course of committing the offense the offender causes damage to the real or personal property of another in excess of \$1,000,

the offender commits grand theft in the first degree, punishable as a felony of the first degree, as provided in s. 775.082, s. 775.083, or s. 775.084.

(b)1. If the property stolen is valued at \$20,000 or more, but less than \$100,000;

2. The property stolen is cargo valued at less than \$50,000 that has entered the stream of interstate or intrastate commerce from the shipper's loading platform to the consignee's receiving dock; or

3. The property stolen is emergency medical equipment, valued at \$300 or more, that is taken from a facility licensed under chapter 395 or from an aircraft or vehicle permitted under chapter 401,

the offender commits grand theft in the second degree, punishable as a felony of the second degree, as provided in s. 775.082, s. 775.083, or s. 775.084. Emergency medical equipment means mechanical or electronic apparatus used to provide emergency services and care as defined in s. 395.002(10) or to treat medical emergencies.

(c) It is grand theft of the third degree and a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the property stolen is:

1. Valued at \$300 or more, but less than \$5,000.
2. Valued at \$5,000 or more, but less than \$10,000.
3. Valued at \$10,000 or more, but less than \$20,000.
4. A will, codicil, or other testamentary instrument.
5. A firearm.
6. A motor vehicle, except as provided in paragraph (2)(a).

7. Any commercially farmed animal, including any animal of the equine, bovine, or swine class, or other grazing animal, and including aquaculture species raised at a certified aquaculture facility. If the property stolen is aquaculture species raised at a certified aquaculture facility, then a \$10,000 fine shall be imposed.

8. Any fire extinguisher.

9. Any amount of citrus fruit consisting of 2,000 or more individual pieces of fruit.

10. Taken from a designated construction site identified by the posting of a sign as provided for in s. 810.09(2)(d).

11. Any stop sign.

12. Anhydrous ammonia.

(d) It is grand theft of the third degree and a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the property stolen is valued at \$100 or more, but less than \$300, and is taken from a dwelling as defined in s. 810.011(2) or from the unenclosed curtilage of a dwelling pursuant to s. 810.09(1).

(e) Except as provided in paragraph (d), if the property stolen is valued at \$100 or more, but less than \$300, the offender commits petit theft of the first degree, punishable as a misdemeanor of the first degree, as provided in s. 775.082 or s. 775.083.

(3)(a) Theft of any property not specified in subsection (2) is petit theft of the second degree and a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, and as provided in subsection (5), as applicable.

(b) A person who commits petit theft and who has previously been convicted of any theft commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(c) A person who commits petit theft and who has previously been convicted two or more times of any theft commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

(d) Every judgment of guilty or not guilty of a petit theft shall be in writing, signed by the judge, and recorded by the clerk of the circuit court. The judge shall cause to be affixed to every such written judgment of guilty of petit theft, in open court and in the presence of such judge, the fingerprints of the defendant against whom such judgment is rendered. Such fingerprints shall be affixed beneath the judge's signature to such judgment. Beneath such fingerprints shall be appended a certificate to the following effect:

"I hereby certify that the above and foregoing fingerprints on this judgment are the fingerprints of the defendant,, and that they were placed thereon by said defendant in my presence, in open court, this the day of, ... (year)...."

Such certificate shall be signed by the judge, whose signature thereto shall be followed by the word "Judge."

2. Any such written judgment of guilty of a petit theft, or a certified copy thereof, is admissible in evidence in the courts of this state as prima facie evidence that the fingerprints appearing thereon and certified by the judge are the fingerprints of the defendant against whom such judgment of guilty of a petit theft was rendered.

(4) Failure to comply with the terms of a lease when the lease is for a term of 1 year or longer shall not constitute a violation of this section unless demand for the return of the property leased has been made in writing and the lessee has failed to return the property within 7 days of his or her receipt of the demand for return of the property. A demand mailed by certified or registered mail, evidenced by return receipt, to the last known address of the lessee shall be deemed sufficient and equivalent to the demand having been received by the lessee, whether such demand shall be returned undelivered or not.

(5)(a) No person shall drive a motor vehicle so as to cause it to leave the premises of an establishment at which gasoline offered for retail sale was dispensed into the fuel tank of such motor vehicle unless the payment of authorized charge for the gasoline dispensed has been made.

(b) In addition to the penalties prescribed in paragraph (3)(a), every judgment of guilty of a petit theft for property described in this subsection

shall provide for the suspension of the convicted person's driver's license. The court shall forward the driver's license to the Department of Highway Safety and Motor Vehicles in accordance with s. 322.25.

1. The first suspension of a driver's license under this subsection shall be for a period of up to 6 months.

2. The second or subsequent suspension of a driver's license under this subsection shall be for a period of 1 year.

Section 2. Section 893.033, Florida Statutes, is amended to read:

893.033 Listed chemicals.—The chemicals listed in this section are included by whatever official, common, usual, chemical, or trade name designated.

(1) PRECURSOR CHEMICALS.—The term "listed precursor chemical" means a chemical that may be used in manufacturing a controlled substance in violation of this chapter and is critical to the creation of the controlled substance, and such term includes any salt, optical isomer, or salt of an optical isomer, whenever the existence of such salt, optical isomer, or salt of optical isomer is possible within the specific chemical designation. The following are "listed precursor chemicals":

(a) Anhydrous ammonia.

(b)(a) Anthranilic acid.

(c)(b) Benzyl chloride.

(d)(e) Benzyl cyanide.

(e)(d) Chloroephedrine.

(f)(e) Chloropseudoephedrine.

(g)(f) Ephedrine.

(h)(g) Ergonovine.

(i)(h) Ergotamine.

(j)(i) Ethylamine.

(k)(j) Isosafrole.

(l)(k) Methylamine.

(m)(l) 3, 4-Methylenedioxymethamphetamine.

(n)(m) N-acetylanthranilic acid.

(o)(n) N-ethylephedrine.

(p)(o) N-ethylpseudoephedrine.

- (q)(p) N-methylephedrine.
- (r)(q) N-methylpseudoephedrine.
- (s)(r) Norpseudoephedrine.
- (t)(s) Phenylacetic acid.
- (u)(t) Phenylpropanolamine.
- (v)(u) Piperidine.
- (w)(v) Piperonal.
- (x)(w) Propionic anhydride.
- (y)(x) Pseudoephedrine.
- (z)(y) Safrole.

(2) ESSENTIAL CHEMICALS.—The term “listed essential chemical” means a chemical that may be used as a solvent, reagent, or catalyst in manufacturing a controlled substance in violation of this chapter. The following are “listed essential chemicals”:

- (a) Acetic anhydride.
- (b) Acetone.
- (c) 2-Butanone.
- (d) Ethyl ether.
- (e) Hydriodic acid.
- (f) Potassium permanganate.
- (g) Toluene.

Section 3. Section 893.149, Florida Statutes, is reenacted to read:

893.149 Unlawful possession of listed chemical.—

- (1) It is unlawful for any person to knowingly or intentionally:
 - (a) Possess a listed chemical with the intent to unlawfully manufacture a controlled substance;
 - (b) Possess or distribute a listed chemical knowing, or having reasonable cause to believe, that the listed chemical will be used to unlawfully manufacture a controlled substance.
- (2) Any person who violates this section is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 4. This act shall take effect July 1, 2003.

Approved by the Governor May 21, 2003.

Filed in Office Secretary of State May 21, 2003.